

HOUSE JOURNAL

SEVENTY-EIGHTH LEGISLATURE, FOURTH CALLED SESSION

PROCEEDINGS

FIRST DAY — TUESDAY, APRIL 20, 2004

In obedience of the proclamation of His Excellency, Rick Perry, Governor of the State of Texas, convening the 78th Legislature, Fourth Called Session, to meet in special session at Austin, Texas, the seat of government, on this the 20th day of April 2004, the members of the House of Representatives assembled in the hall of the House of Representatives, and at 10 a.m. the house was called to order by the Honorable Tom Craddick, speaker.

The roll of the house was called and a quorum was announced present (Record 1).

Present — Mr. Speaker; Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberger; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Absent, Excused — Gutierrez; Merritt; Reyna.

The invocation was offered by the Reverend Dr. Louis H. Zbiden, Jr., Minister Emeritus, First Presbyterian Church, San Antonio.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for today because of illness:

Gutierrez on motion of Peña.

Reyna on motion of Denny.

The following member was granted leave of absence for today because of illness in the family:

Merritt on motion of Kuempel.

CAPITOL PHYSICIAN

The speaker recognized Representative Gattis who presented Dr. Ronald Only of Georgetown as the "Doctor for the Day."

The house welcomed Dr. Only and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

PROCLAMATION BY THE GOVERNOR OF THE STATE OF TEXAS

The speaker laid before the house and had read the following proclamation by the governor:

TO ALL WHOM THESE PRESENTS SHALL COME:

WHEREAS, education is the foundation for the economic and cultural future of the State of Texas; and

WHEREAS, the constitutional responsibility for the development of an efficient system of public education rests with the legislature; and

WHEREAS, Texas must maintain an equitable system of school finance that ensures student performance and accountability are the primary goals; and

WHEREAS, educational excellence requires that the state provide resources to reward higher levels of student performance; and

WHEREAS, the state's system of accountability must include new measures of financial accountability and transparency in budgeting; and

WHEREAS, any changes in revenue structures must stimulate job creation and provide a healthy climate in which business can operate and expand; and

WHEREAS, local property taxes must be cut, controlled, and capped to ensure that Texans are not burdened by excessive property tax rates without a vote; and

WHEREAS, the current state of public school finance requires immediate action by the legislature to ensure the continued efficient and effective operation of Texas schools; and

WHEREAS, the people have placed the constitutional power to call and convene the legislature into special session in the hands of the Chief Executive Officer of the State;

NOW, THEREFORE, I, RICK PERRY, GOVERNOR OF THE STATE OF TEXAS, by the authority vested in me by Article IV, Section 8, of the Texas Constitution, do hereby call an extraordinary session of the 78th Legislature, to be convened in the City of Austin, commencing at 10 a.m. on Tuesday the 20th day of April 2004, for the following purposes:

To consider legislation that provides for performance based incentives to schools that attain higher levels of achievement.

To consider legislation that provides a cap on the growth in the appraisal values of homesteads for property tax purposes.

To consider legislation that provides a cap that is indexed to population and inflation on all property tax revenues received by local governments.

To consider legislation that provides reform of the property tax appraisal process, including having elected officials approve certification rolls, and requiring mandatory sales price disclosure of real property.

To consider legislation that provides for modifications to the recapture provisions of the school finance system, including but not limited to a constitutional amendment that links residential and non-residential tax rates at a lower level than provided by current law, providing for local enrichment.

To consider legislation that creates an Educational Excellence Fund to provide incentive funding, funding to maintain and enhance equity, and greater funding to address the needs of students with limited English proficiency.

To consider legislation on education reforms and property tax reduction proposals that benefit the school children and property tax payers of Texas.

To consider legislation that provides for an increase in cigarette and tobacco product taxes and fees and dedicating the revenue derived from the increase to the Educational Excellence Fund and for school property tax relief for taxpayers.

To consider legislation and amendments to the constitution that authorize and allow the placement and licensing of video lottery terminals at licensed racetracks and certain Indian reservations, providing that the revenue derived from such activity is dedicated to the Educational Excellence Fund, providing that the racetracks and tribes sign a contract with the state.

To consider legislation that privatizes the collection of delinquent taxes.

To consider legislation that provides for a reasonable tax and fees on certain adult entertainment venues.

To consider legislation that provides for an acceleration in the collection of tax revenues.

To consider legislation that reduces fraud in the sale of automobiles.

To consider legislation that closes loopholes in the franchise tax and dedicates the revenue from closing the loopholes to the Educational Excellence Fund and for school property tax relief for taxpayers.

The Secretary of State will take notice of this action and will notify the members of the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 15th day of April, 2004.

Rick Perry
Governor of Texas

(SEAL)
Geoffrey S. Connor
Secretary of State

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

HOUSE NOTIFIED

A committee from the senate was announced at the door of the house and, being admitted, notified the house that the senate is organized and ready to transact business.

**SCR 1 - ADOPTED
(Heflin - House Sponsor)**

Representative Heflin moved to suspend all necessary rules to take up and consider at this time **SCR 1**.

The motion prevailed without objection.

The following resolution was laid before the house:

SCR 1

WHEREAS, Section 17, Article III, Texas Constitution, provides that neither house of the legislature may adjourn for more than three days without the consent of the other house; now, therefore, be it

RESOLVED by the 78th Legislature, 4th Called Session, That each house grant the other permission to adjourn for more than three days during the period beginning on Tuesday, April 20, 2004, and ending on Tuesday, April 27, 2004.

SCR 1 was adopted.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Public School Finance, Select, 1:00 p.m. today, E1.030, for a formal meeting, to consider issues related to school finance.

Pensions and Investments, 30 minutes after adjournment today, E1.010, for a public hearing, to consider interim charges.

Joint Interim Committee on Higher Education, 30 minutes after adjournment today, JHR 120, for a public hearing, to consider committee's interim charges.

ADJOURNMENT

Representative Morrison moved that the house adjourn until 10 a.m. Tuesday, April 27.

The motion prevailed without objection.

The house accordingly, at 10:52 a.m., adjourned until 10 a.m. Tuesday, April 27.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 1 (By Grusendorf), Relating to public education and public school finance, including state and local taxation.

To Public School Finance, Select.

HB 2 (By Grusendorf), Relating to public education and public school finance, including state and local taxation.

To Public School Finance, Select.

HB 3 (By Hartnett), Relating to trusts.

To Judicial Affairs.

HB 4 (By Madden), Relating to administrative consolidation among school districts.

To Public School Finance, Select.

HB 5 (By Griggs and Solomons), Relating to increases in the tax on cigarettes and other tobacco products and to the allocation of those increases.

To Public School Finance, Select.

HB 6 (By Isett), Relating to the ad valorem tax rates of certain taxing units.

To Local Government Ways and Means.

HB 7 (By Isett), Relating to the accreditation of private elementary and secondary schools.

To Public School Finance, Select.

HB 8 (By Madden), Relating to the appointment of certain officers of the State Board of Education.

To Public School Finance, Select.

HB 9 (By Madden), Relating to the terms of office of members of the boards of trustees of independent school districts and to the dates on which elections for those offices are held.

To Public School Finance, Select.

HB 10 (By Madden), Relating to the measurement of a student's performance gain on certain assessment instruments.

To Public School Finance, Select.

HB 11 (By Madden), Relating to standards adopted by the commissioner of education for adequacy of public school facilities.

To Public School Finance, Select.

HB 12 (By Hochberg), Relating to the selection and purchase of certain textbooks by a school district or open-enrollment charter school and to a program to study the use of credits for textbooks.

To Public School Finance, Select.

HB 13 (By Seaman), Relating to funding for public school career and technology programs.

To Public School Finance, Select.

HB 14 (By Griggs), Relating to public school finance, a voluntary personal income tax, and other sources of revenue.

To Public School Finance, Select.

HB 15 (By Grusendorf), Relating to public education and public school finance, including state and local taxation.

To Public School Finance, Select.

HB 16 (By Madden), Relating to the creation, amendment, or rescission of a home-rule school district charter.

To Public School Finance, Select.

HB 17 (By Flores), Relating to authorizing the state to conduct video lottery and authorizing Indian tribes to conduct video lottery under a contract with the state; providing penalties.

To Public School Finance, Select.

HB 18 (By Castro), Relating to a survey to monitor the postsecondary educational plans of seniors at public high schools.

To Public School Finance, Select.

HB 19 (By Madden), Relating to the sale of tax receivables by local governments.

To Public School Finance, Select.

HB 20 (By Rodriguez), Relating to state taxes and financing schools through those taxes; providing penalties.

To Public School Finance, Select.

HB 21 (By Goolsby), Relating to amendments to the Texas Timeshare Act.

To Licensing and Administrative Procedures.

HB 22 (By Goolsby), Relating to medical liability insurance for certain retired physicians acting as volunteer health care providers.

To Insurance.

HB 23 (By Goolsby), Relating to the establishment of a special police force or neighborhood police department.

To Law Enforcement.

HB 24 (By Goolsby), Relating to professional liability insurance for certain retired physicians acting as volunteer health care providers.

To Insurance.

HB 25 (By Goolsby), Relating to the right of an adopted person to have access to the person's original birth certificate.

To Juvenile Justice and Family Issues.

HB 26 (By Goolsby), Relating to victim notification regarding the release of certain defendants following acquittal by reason of insanity.

To Criminal Jurisprudence.

HB 27 (By Keel), Relating to the right of first refusal in certain real estate transactions.

To Financial Institutions.

HB 28 (By Keel, Talton, and Hodge), Relating to eliminating the compensation to victims of crime fund as a source of funding for the Crime Victims' Institute.

To Criminal Jurisprudence.

HB 29 (By Hopson, McReynolds, Farabee, and Mabry), Relating to a health coverage or compensation supplementation program for active school employees.

To Public School Finance, Select.

HB 30 (By Seaman), Relating to an increase in the rate of the mixed beverage tax and to the use of the increase to fund public school career and technology programs.

To Public School Finance, Select.

HCR 1 (By Van Arsdale), Memorializing the Congress of the United States to enact legislation proposing an amendment to the Constitution of the United States relating to marriage.

To Juvenile Justice and Family Issues.

HCR 2 (By J. Davis), Honoring Larry Forehand on the 30th anniversary of his Casa Olé restaurant chain.

To Rules and Resolutions.

HJR 1 (By Grusendorf), Proposing a constitutional amendment creating the education excellence fund, authorizing a state ad valorem tax for public education, authorizing state video lottery games that may be operated by licensed racetrack operators or recognized Indian tribes, and authorizing the legislature to limit the maximum average increase in the appraised value of residence homesteads for ad valorem tax purposes to three percent or more.

To Public School Finance, Select.

HJR 2 (By Grusendorf), Proposing a constitutional amendment creating the education excellence fund, authorizing a state ad valorem tax for public education, authorizing state video lottery games that may be operated by licensed racetrack operators or recognized Indian tribes, and authorizing the legislature to limit the maximum average increase in the appraised value of residence homesteads for ad valorem tax purposes to three percent or more.

To Public School Finance, Select.

HJR 3 (By Flores), Proposing a constitutional amendment authorizing the state to operate video lotteries.

To Public School Finance, Select.

HJR 5 (By Griggs), Proposing a constitutional amendment relating to the state's duty to fund the public school system.

To Public School Finance, Select.

HJR 6 (By Van Arsdale), Proposing a constitutional amendment relating to the support and maintenance and an efficient system of public schools.

To Public School Finance, Select.

HJR 7 (By Grusendorf), Proposing a constitutional amendment creating the education excellence fund, authorizing a state ad valorem tax for public education, authorizing state video lottery games that may be operated by licensed racetrack operators or recognized Indian tribes, and authorizing the legislature to limit the maximum average increase in the appraised value of residence homesteads for ad valorem tax purposes to three percent or more.

To Public School Finance, Select.

HR 1 (By Eissler), Honoring Bob Lewis on his retirement from Chicago Bridge and Iron Company.

To Rules and Resolutions.

HR 2 (By Martinez Fischer), In memory of Viola Campos of San Antonio.

To Rules and Resolutions.

HR 3 (By Mercer), Honoring The University of Texas at San Antonio men's basketball team for winning the 2003-2004 Southland Conference championship.
To Rules and Resolutions.

HR 4 (By Wolens, et al.), Amending House Rule 5 Chapter E.
To Rules and Resolutions.

HR 5 (By Burnam), In memory of Viola Pitts of Fort Worth.
To Rules and Resolutions.

MESSAGE FROM THE SENATE

The following message from the senate was today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Tuesday, April 20, 2004

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SCR 1 Whitmire SPONSOR: Heflin
Granting the legislature permission to adjourn for more than three days during the period beginning on Tuesday, April 20, 2004, and ending on Tuesday, April 27, 2004.

Respectfully,
Patsy Spaw
Secretary of the Senate

